

Before the
Federal Communications Commission
Washington, DC

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Amendment of Section 202(b),)
Table of Allotments,) RM-____
FM Broadcast Stations)
(Cordele, Hawkinsville &)
Montezuma, Georgia))
)
To: Chief, Allocations Branch)

PETITION FOR RULEMAKING

Metro Com Corp., licensee of Station WKKN(FM), Cordele, Georgia ("WKKN"), Broadcast Equities Corp, permittee of BPH-970925NH, Montezuma, Georgia ("BEC"), and Tri-County Broadcasting Company, licensee of Station WQSY(FM), Hawkinsville, Georgia ("WQSY"), by their attorney, hereby request that the Commission amend the Table of Allotments as follows:

<u>Community</u>	<u>Current</u>	<u>Proposed</u>
Cordele, Georgia	212A, 252A	212A, 236C3
Montezuma, Georgia	236A	280C3
Hawkinsville, Georgia	280C3	252C3

Petitioners also request the modification of the licenses for WKKN and WQSY, and the permit for Montezuma, accordingly. In support thereof, the following is stated:

As seen by the Engineering Statement attached hereto as Attachment 1, adoption of this proposal would be in full accord with the Commission's technical spacing rules. Moreover, an actual transmitter site exists with respect to each proposed re-allotments at which predicted full

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city-grade service can be provided to each of their communities of allotment.

Grant of this proposal will allow two stations to upgrade their facilities from Class A to Class C3, resulting in a net gain of service to 107,038 persons. This will amount to service to over *twice* as many persons and areas as is permitted under the licensees' current authorizations. See Attachment 1.

Although this swap involved non-adjacent channels, it is not necessary under the Commission's rules for proposed Channel 280C3 at Montezuma of the proposed Channel 236C3 at Cordele to be subject to competing expressions of interest or for the proposed channel to be opened up for competing applications. Under Section 1.420(g)(3) of the Commission's rules, licensees may request the substitution of a higher class of channel and a modification of their existing licenses in the course of a rulemaking proceeding if they are upgrading on their existing channels or on channels that are adjacent to their current channels of operation. 47 C.F.R. § 1.420(g)(3). In adopting this rule, however, the Commission *also* stated:

we are asked to consider variations of the rule which involve the need to make substitutions at other communities in order to create a mutually exclusive relationship. The scenario is as follows: a Class A licensee operating on Channel 240A files a request to upgrade on Channel 271C2 and proposed to exchange channels with a licensee in another community currently operating on Channel 270A. It is argued that although Channels 240A and 271C2 are not adjacent, nevertheless Channel 271C2 is not available in the Ashbacker sense for application by other interested parties, because Channel 270A must be replaced with Channel 240A in order for the upgrade to be possible. Only the licensee on Channel 240A could utilize Channel 271C2 in this scenario. We recognize that this sequence of events is not strictly an adjacent channel relationship. However, the mutually exclusive relationship of the channels involved is similar to the subject proposal. We believe that rather than foreclose this type of proposal, we shall analyze such requests on a case-by case basis to ascertain the exact factual situation and determine whether the rationale

used here for the new rule...applies. The concern in all such cases would be mutually exclusive relationship which is created.

Amendment of the Commission's Rules Regarding Modification of FM Broadcast Licenses to Higher Class Co-channel or Adjacent Channels, 60 R.R.2d 114, 120 ¶ 24 (1986). Since the adoption of that Report and Order, the Commission has accepted and adopted proposals for "incompatible channel swaps" that include the required "mutual exclusivity" between the proposed swapping channels. See, e.g., Ashdown and DeQueen, AR, 12 FCC Rcd 17388 (Chief, Allocations Branch 1997); Parris Island and Hampton, SC, 12 FCC Rcd 17331 (Chief, Allocations Branch 1997); Pikeville, KY, Clinchco, VA and Matewan, WV, 6 FCC Rcd 3732 (Chief, Allocations Branch 1991); Angola, Berne, Decatur, Lagrange, and Roanoke, IN; Brooklyn and Hudson, MI, 6 FCC Rcd 1230 (Acting Chief, Allocations Branch 1991); Beverly Hills, Chiefland, Holiday, Micanopy and Saratoga, FL, 8 FCC Rcd 2197 (Chief, Allocations Branch 1993). See also, Cordova, Holly Pond, and Warrior, AL, 5 FCC Rcd 6301 (Deputy Chief, Policy and Rules Div. 1990). Moreover, the Commission has previously considered and accepted multiple upgrades, such as that proposed here, in the context of in "incompatible channel swap." Carisle, Irvine and Morehead, KY, 12 FCC Rcd 13181 (Chief, Allocations Branch 1997).

As seen in the attached Engineering Report, in the present case, the required "mutual exclusivity" between the two channels and communities clearly exists and further, as required, this is the only arrangement of channels that will allow for the upgrades of the Class A assignment at Cordele and the Class A allotment at Montezuma to be accomplished. Moreover, it should be noted that in this instance, Channel 252C3 is proposed to be substituted

for Channel 280C3. In order to constitute an "incompatible channel swap," the Commission has required the channel being substituted be the only channel of the same class that can be substituted at the community in question. See Colonial Heights, TN, 9 FCC Rcd 6767, ¶ 2 (Acting Chief, Allocations Branch 1994) ("[t]he allotment of Channel 271C2 to community A must require the deletion of Channel 270A at community B and Channel 240A must be the only Class A channel which can be substituted at community B"). In this instance, the petitioners' Consulting Engineer has examined the substitution at Hawkinsville and has confirmed that Channel 252C3 is the only available channel to which WQSY can be moved.

Thus, it is requested that the Commission treat this proposal as a valid "incompatible channel swap" within the meaning of the Commission's Report and Order, and that the Commission state in any Notice of Proposed Rulemaking issued in conjunction with this proposal that the Commission will not entertain other expressions of interest for the requested use of Channel 236C3 at Cordele or Channel 280C3 at Montezuma. See, e.g., Cordova, Holly Pond and Warrior, AL, 5 FCC Rcd 6301, ¶ 3 (Deputy Chief, Policy and Rules Div. 1990). Finally, to the extent the proposal involves a proposed change in transmitter sites of Station WQSY, Tri-County Broadcasting Company nevertheless specifically consents to the proposed site change.¹

¹ The three petitioners are commonly owned by 100% stockholder James Popwell, Sr. Nevertheless, in accord with Commission policy, Metro Com Corp. and Broadcast Equities Company hereby specifically state their commitment to reimburse Tri-County Broadcasting Company for its reasonable and prudent expenses that it may incur in conjunction with its change of frequencies of operation.

Accordingly, Metro Com Corp., Broadcast Equities, Inc., and Tri-County Broadcasting Company respectfully request that this Petition be adopted, and that the Commission issue a *Notice of Proposed Rulemaking* proposing to amend the FM Table of Allotments in the manner specified above.

Respectfully submitted,

**TRI-COUNTY BROADCASTING
COMPANY**

METRO COM CORP.

BROADCAST EQUITIES CORP.

By: 

Dan J. Alpert

Their Attorney

The Law Office of Dan J. Alpert
2120 N. 21st Rd.
Arlington, VA 22201
(703) 243-8690

February 10, 1999

Requested Rule Making
Cordele, Montezuma and Hawkinsville
(All Georgia)
January 1999

This Requested Rule Making is compiled for the following joint petitioners:

Metro Com Corp., WKKN, Cordele, Georgia

Broadcast Equities Corp., Permittee of BPH-970925NH, Montezuma, Georgia

Tri-County Broadcasting Company, WQSY, Hawkinsville, Georgia

These joint petitioners seek to have §73.202, the FM Table of Allotments, modified to reflect the following arrangement of FM frequencies to offer more service to many of the involved communities.

<u>City</u>	<u>Present</u>	<u>Proposed</u>
Cordele	212A, 252A	212A, 236C3
Montezuma	236A	280C3
Hawkinsville	280C3	252C3

By the above arrangement of FM channels, Cordele and Montezuma (both currently Class A facilities) will upgrade to Class C3 facilities. Hawkinsville, which presently is a Class C3 facility, will make a lateral move to another Class C3 channel to help effectuate the Cordele and Montezuma upgrades.

The following exhibits display the fact that from each hypothetical allocation reference, compliance with §73.207 is accomplished. From each reference, the 70 dBu contour covers each city of license. When ordered to the new channels, each licensee

hereby states its intention to timely file the appropriate form to begin broadcasting on the new channel. If a site change or upgrade is made, Form 301 will be timely utilized.

The following is a comparison of present and proposed areas and populations. The current populations and areas were taken from the stations' latest Form 301 application. The proposed areas and populations assume class maximum facilities from the allocation reference coordinates:

<u>Analysis of Present Service</u>		
City	Area	Population
Cordele	1,824.3 Sq Km	23,035
Montezuma	1,105.7	11,236
Hawkinsville	4,695.0	<u>69,403</u>
Total Present Population		103,674

<u>Analysis of Proposed Service</u>		
Cordele	4,784.1	70,186
Montezuma	4,781.7	74,978
Hawkinsville	4,789.5	<u>65,548</u>
Total Proposed Population		210,712

The increased population is a net gain of 107,038 persons. This represents a net gain of 103% over the population presently served. There is a net gain of square kilometers served of 6730.3 or 113%.

The new arrangement of channels proposed herein is thought to be a non-compatible channel swap. There is no other arrangement of channels that will allow all three stations to be Class C3 facilities. In light of this non-compatible channel swap, expressions of interest from other interested parties can not be entertained.

All information contained herein is thought to be true and accurate to the knowledge of the undersigned.



Clifton G. Moor
Bromo Communications, Inc.

January 12, 1999

Searching at Cordele Reference

REFERENCE				CLASS C3		DISPLAY DATES	
32 06 24 N				Current rules	spacings	DATA	01-09-99
83 55 39 W				CHANNEL 236 -	95.1 MHz	SEARCH	01-12-99

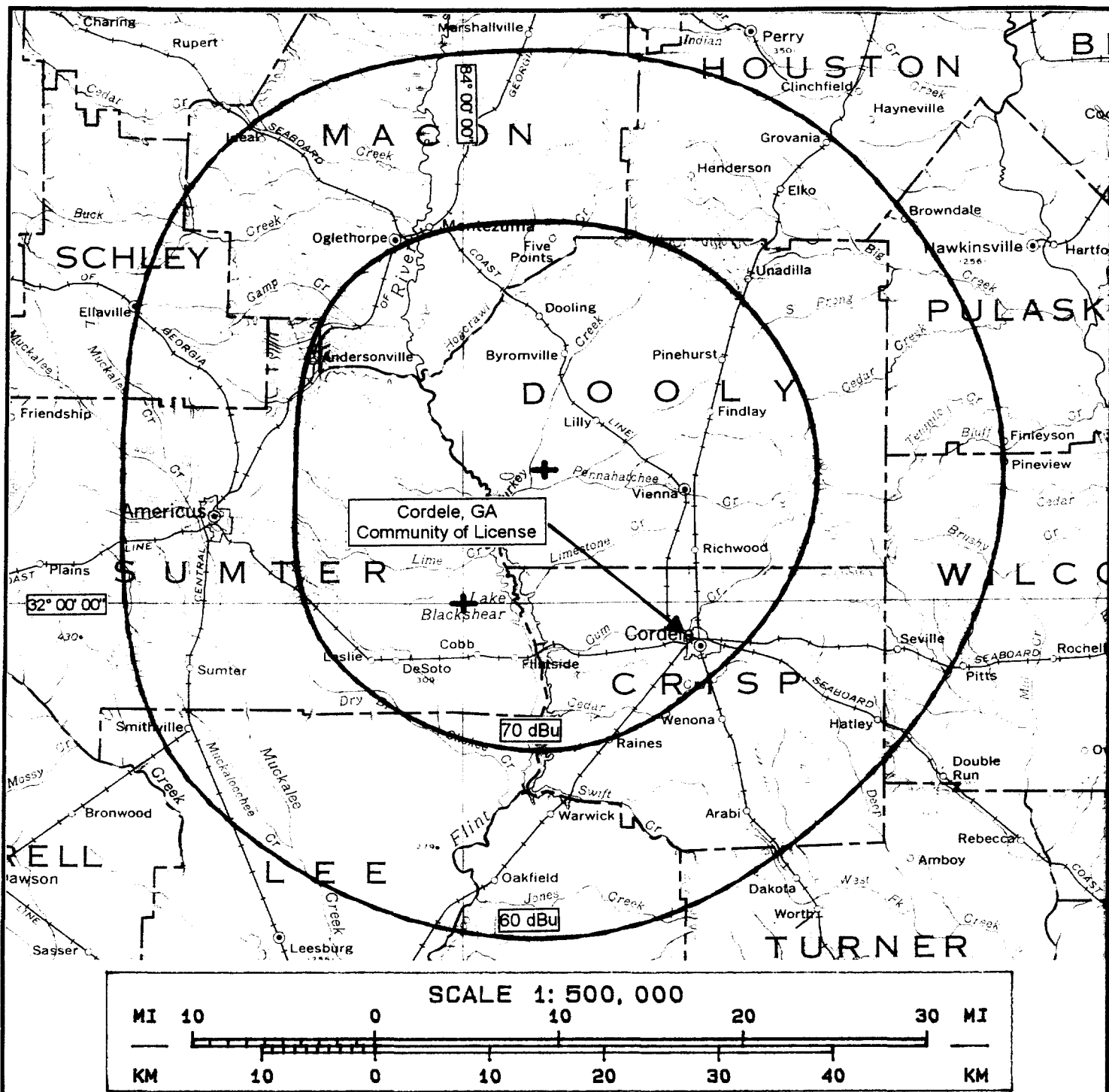
CALL TYPE	CH# LAT	CITY LNG	STATE PWR	BEAR' HT	D-KM D-Mi	R-KM R-Mi	MARGIN (KM)

CP236	236A	Montezuma	GA	343.3	20.65	142.0	-121.35 *
CP CN	32 17 06	83 59 26	6.000 kW	42M	12.8	88.3	
Broadcast Equities Corp.					BPH970925NH		000211
>amended 980521							
WJYF.C	237C2	Nashville	GA	152.8	116.56	117.0	-0.44 *
CP ZCN	31 10 18	83 21 57	14.500 kW	159M	72.4	72.7	
Tifton Broadcasting Corporati					BPH971119IA		991027
>*From Channel 237C3 per D93-270.							
WDECFM	234C3	Americus	GA	237.7	43.30	43.0	0.30 <
LI CN	31 53 52	84 18 53	25.000 kW	100M	26.9	26.7	
Sumter Broadcasting Co., Inc.					BLH960401KA		
>From Channel 232A Per D90-212							
WPCH	235C	Atlanta	GA	348.4	192.54	176.0	16.54
LI CY	33 48 27	84 20 26	100.000 kW	300M	119.7	109.4	
Jacor Broadcasting of Atlanta					BLH880106KA		
WJYF	237C3	Nashville	GA	152.8	116.56	99.0	17.56
LI CN	31 10 18	83 21 57	9.700 kW	159M	72.4	61.5	
Tifton Broadcasting Corporati					BLH940217KD		
>*To Channel 237C2 per D93-270							
WTNT	235C1	Tallahassee	FL	190.7	172.41	144.0	28.41
LI CY	30 34 43	84 15 49	100.000 kW	256M	107.2	89.5	
Park Broadcasting of Florida,					BLH840106AE		
WFFM	289A	Ashburn	GA	150.0	53.61	12.0	41.61
LI CN	31 41 17	83 38 38	6.000 kW	100M	33.3	7.5	
Tift County Broadcasting, Inc					BMLH910802KB		
WBYZ	233C	Baxley	GA	104.3	144.07	96.0	48.07
LI CN	31 47 10	82 27 03	100.000 kW	309M	89.5	59.7	
South Georgia Broadcasters, I					BLH880719KA		

Cordele §73.207 Allocation Study

EXHIBIT #1A
Requested Rule Making
Cordele, Montezuma and Hawkinsville
 (All Georgia)
 January 1999

BROMO BROADCAST
 TECHNICAL CONSULTANTS
COMMUNICATIONS



Cordele Proposed Contours

Proposed Site:
 32° 06' 24" North Latitude
 83° 55' 39" West Longitude

Map is USGS
 State of Georgia
 Scale 1:500,000

EXHIBIT #1B
Requested Rule Making
Cordele, Montezuma and Hawkinsville
 (All Georgia)
 January 1999

BROMO BROADCAST
 COMMUNICATIONS TECHNICAL CONSULTANTS

Searching at Montezuma Reference

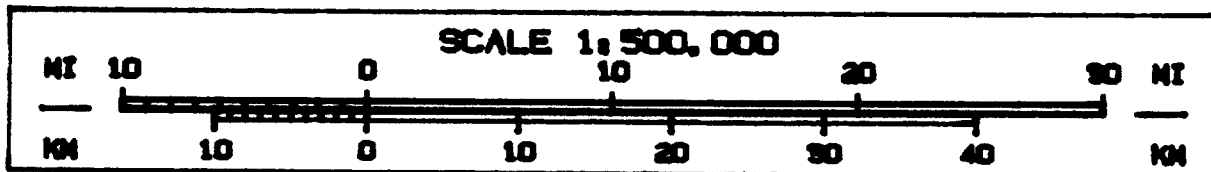
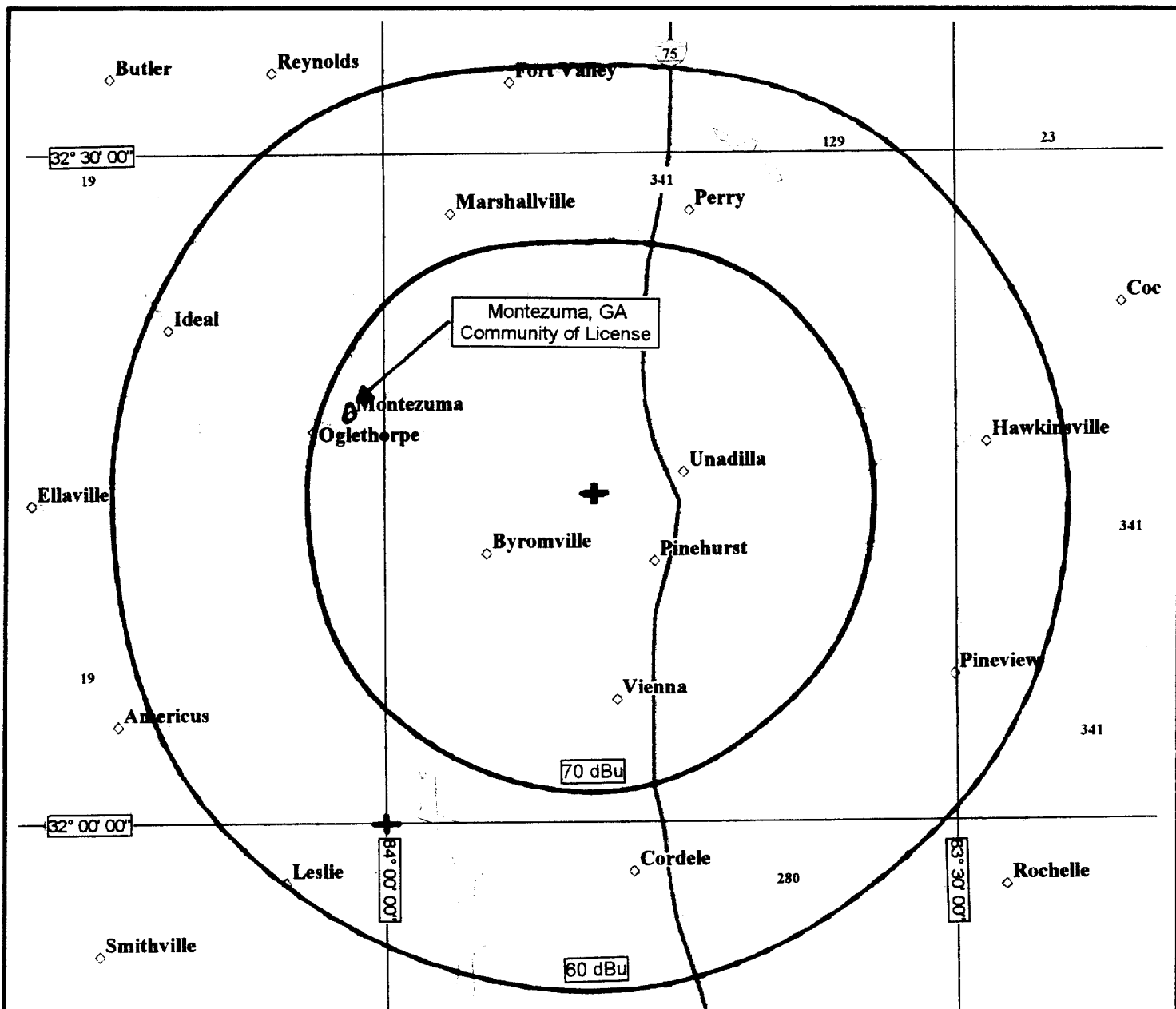
REFERENCE	CLASS C3	DISPLAY DATES
32 14 46 N	Current rules spacings	DATA 12-25-98
83 49 01 W	CHANNEL 280 -103.9 MHz	SEARCH 12-30-98

CALL TYPE	CH# LAT	CITY LNG	STATE PWR	BEAR' HT	D-KM D-Mi	R-KM R-Mi	MARGIN (KM)
WQSY	280C3	Hawkinsville	GA	116.4	19.60	153.0	-133.40 *
LI CN	32 10 03	83 37 51	10.500 kW	151M	12.2	95.1	
Tri-County Broadcasting Compa					BLH960122KE		
>From Channel 280A Per D92-112							
AP279	279A	Cusseta	GA	274.6	89.36	89.0	0.36 <
AP CN	32 18 39	84 45 45	6.000 kW	100M	55.5	55.3	
Signature Broadcasting, Ltd.					BPH930701ME 931207		
ALOPEN	279A	Cusseta	GA	274.1	90.49	89.0	1.49 <
AL N	32 18 18	84 46 30	0.000 kW	0M	56.2	55.3	
92-239 WO= 930601					930701		
>Effective 5-28-93							
AP279	279A	Cusseta	GA	274.8	90.93	89.0	1.93 <
AP CN	32 18 54	84 46 44	2.800 kW	145M	56.5	55.3	
Cusseta Broadcasting Corporat					BPH930701MG 931207		
WVKX	279A	Irwinton	GA	40.2	91.98	89.0	2.98 <
LI CN	32 52 48	83 11 07	3.000 kW	100M	57.2	55.3	
Wilkinson Broadcasting					BLH940919KD		
WVKX.C	279A	Irwinton	GA	40.2	91.98	89.0	2.98 <
CP CN	32 52 48	83 11 07	6.000 kW	100M	57.2	55.3	
Wilkinson Broadcasting					BPH970818IC 991210		
WGPCFM	283C1	Albany	GA	193.0	79.31	76.0	3.31
LI CY	31 32 57	84 00 19	100.000 kW	299M	49.3	47.2	
Albany Broadcasting Company					BLH900424KC		
WDDK	280A	Greensboro	GA	21.4	146.35	142.0	4.35
LI CN	33 28 29	83 14 46	3.000 kW	100M	91.0	88.3	
Briarpatch Radio, Inc.					BLH910913KA		
WDDK.C	280A	Greensboro	GA	21.4	146.35	142.0	4.35
CP ZCN	33 28 29	83 14 46	5.300 kW	100M	91.0	88.3	
Briarpatch Radio, Inc.					BPH970818IE 991210		
>Amended 980218							

Montezuma \$73.207 Allocation Study

EXHIBIT #2A
Requested Rule Making
Cordele, Montezuma and Hawkinsville
 (All Georgia)
 January 1999

BROMO BROADCAST
 COMMUNICATIONS TECHNICAL CONSULTANTS



Montezuma Proposed Contours

Proposed Site:
 32° 14' 46" North Latitude
 83° 49' 01" West Longitude

Map is State of Georgia
 Scale 1:500,000
 ©1993 DeLorme Mapping

EXHIBIT #2B
Requested Rule Making
Cordele, Montezuma and Hawkinsville
 (All Georgia)
 January 1999

BROMO
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Searching at Hawkinsville Reference

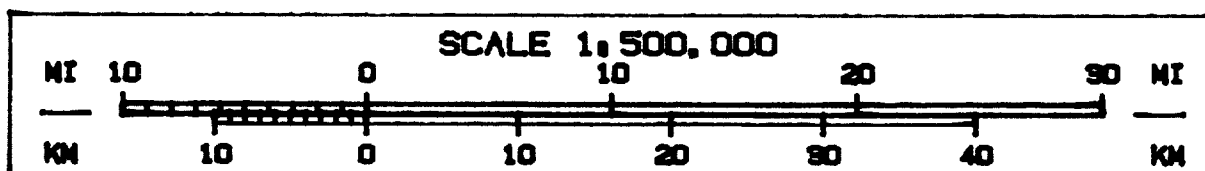
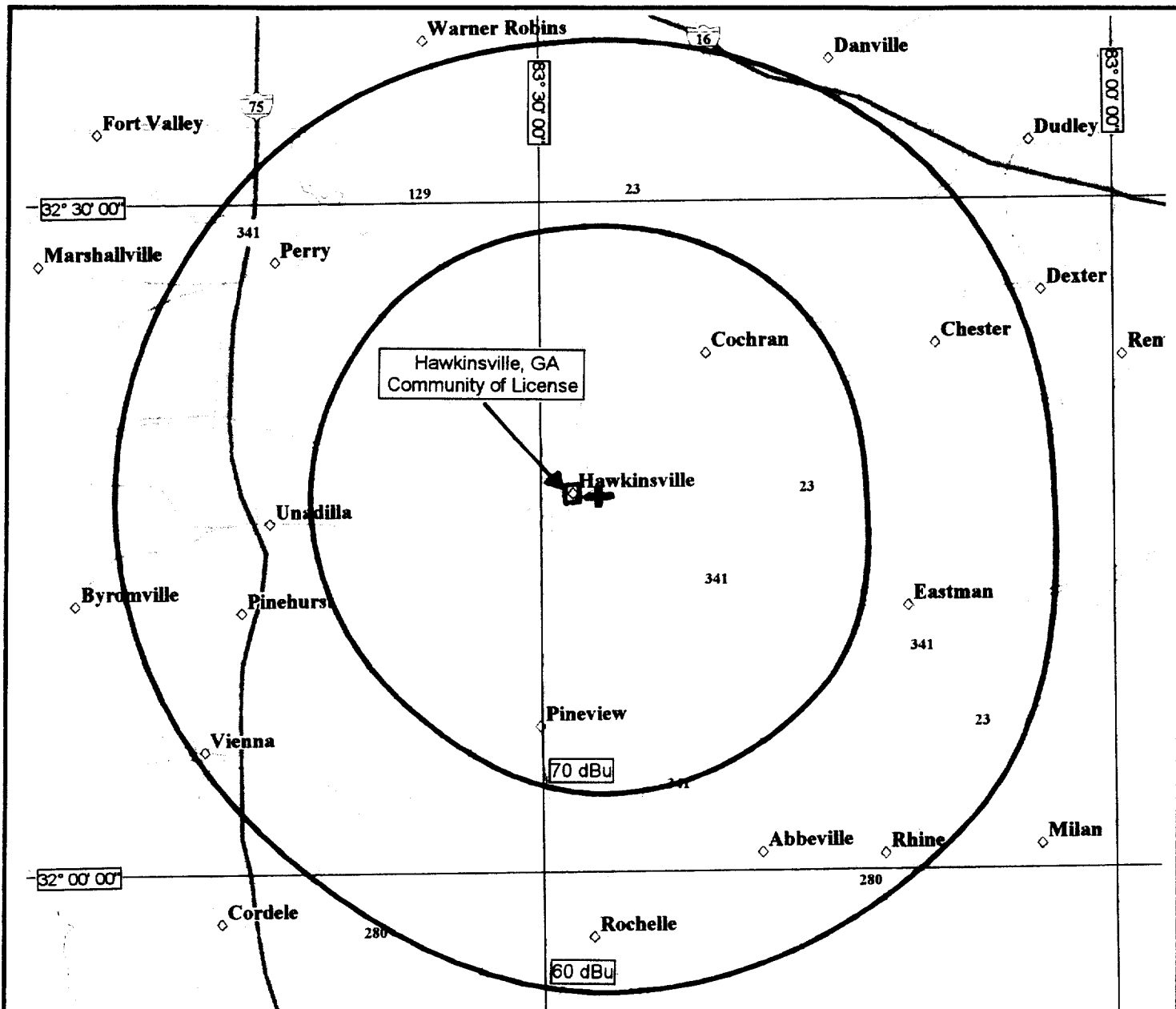
REFERENCE	CLASS C3	DISPLAY DATES
32 16 51 N		DATA 12-25-98
83 27 02 W	Current rules spacings	SEARCH 12-30-98
----- CHANNEL 252 - 98.3 MHz -----		

CALL TYPE	CH# LAT	CITY LNG	STATE PWR	BEAR' HT	D-KM D-Mi	R-KM R-Mi	MARGIN (KM)
WKKN	252A	Cordele	GA	219.9	46.80	142.0	-95.20 *
LI CN	31 57 26	83 46 08	3.000 kW	91M	29.1	88.3	
		Metro Com Corp.			BLH4334		
WKKN.C	252A	Cordele	GA	217.9	49.42	142.0	-92.58 *
CP ZCN	31 55 45	83 46 20	4.200 kW	85M	30.7	88.3	
		Metro Com Corp.			BPH980204IB		991113
WGCO	252C1	Midway	GA	110.6	211.08	211.0	0.08 <
LI CN	31 36 45	81 21 37	100.000 kW	299M	131.2	131.1	
		Intermart Broadcasting Georgi			BLH900104KA		
WIBBFM	250C3	Fort Valley	GA	318.0	43.12	43.0	0.12 <
CP CN	32 34 12	83 45 26	10.500 kW	152M	26.8	26.7	
		Taylor Communications Corpora			BPH951201IC		971003
WIBBFM	250C3	Fort Valley	GA	318.0	43.12	43.0	0.12 <
LI ZCN	32 34 12	83 45 26	10.500 kW	152M	26.8	26.7	
		Taylor Communications Corpora			BMLH930921KF		
WLPF	253A	Ocilla	GA	167.3	92.20	89.0	3.20
LI ZCN	31 28 11	83 14 11	2.300 kW	159M	57.3	55.3	
		Clarence T. Barinowski			BLH940105KC		
WSBFM	253C	Atlanta	GA	333.3	183.58	176.0	7.58
LI CN	33 45 33	84 20 05	100.000 kW	313M	114.1	109.4	
		WSB, Inc.			BLH980903KB		
WAGH	252A	Fort Mitchell	AL	273.5	151.03	142.0	9.03
LI CN	32 21 48	85 03 06	6.000 kW	100M	93.9	88.3	
		Minority Radio Associates, In			BLH930601KE		
WJATFM	251A	Swainsboro	GA	71.7	107.85	89.0	18.85
LI CN	32 35 08	82 21 42	3.000 kW	87M	67.0	55.3	
		Radio Station WJAT, Inc.			BMLH890228KD		

Hawkinsville §73.207 Allocation Study

EXHIBIT #3A
Requested Rule Making
Cordele, Montezuma and Hawkinsville
(All Georgia)
January 1999

BROMO
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 TECHNICAL CONSULTANTS



Hawkinsville Proposed Contours

Proposed Site:
32° 16' 51" North Latitude
83° 27' 02" West Longitude

Map is State of Georgia
Scale 1:500,000
©1993 DeLorme Mapping

EXHIBIT #3B
Requested Rule Making
Cordele, Montezuma and Hawkinsville
(All Georgia)
January 1999

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